

STATE OF NEW YORK

6525

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IN ASSEMBLY

March 11, 2019

Introduced by M. of A. O'DONNELL, BENEDETTO, LENTOL, STIRPE, GUNTHER, LIFTON, LALOR, ZEBROWSKI, WEPRIN, ENGLEBRIGHT, ARROYO, WOERNER, GOTTFRIED, SANTABARBARA, RODRIGUEZ -- Multi-Sponsored by -- M. of A. ABBATE, BRABENEC, KIM, KOLB, LUPARDO, McDONOUGH, MONTESANO, RAIA, THIELE -- read once and referred to the Committee on Higher Education

AN ACT to amend the limited liability company law, the business corporation law, the partnership law, the public health law and the education law, in relation to allowing doctors of chiropractic licensed under title VIII, article 132 of the education law to form limited liability companies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision (a) of section 1203 of the limited liability
2 company law, as amended by chapter 475 of the laws of 2014, is amended
3 to read as follows:

4 (a) Notwithstanding the education law or any other provision of law,
5 one or more professionals each of whom is authorized by law to render a
6 professional service within the state, or one or more professionals, at
7 least one of whom is authorized by law to render a professional service
8 within the state, may form, or cause to be formed, a professional
9 service limited liability company for pecuniary profit under this arti-
10 cle for the purpose of rendering the professional service or services as
11 such professionals are authorized to practice. With respect to a profes-
12 sional service limited liability company formed to provide medical
13 services as such services are defined in article 131 of the education
14 law, each member of such limited liability company must be licensed
15 pursuant to article 131 of the education law to practice medicine in
16 this state. With respect to a professional service limited liability
17 company formed to provide dental services as such services are defined
18 in article 133 of the education law, each member of such limited liabil-
19 ity company must be licensed pursuant to article 133 of the education

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 law to practice dentistry in this state. With respect to a professional
2 service limited liability company formed to provide veterinary services
3 as such services are defined in article 135 of the education law, each
4 member of such limited liability company must be licensed pursuant to
5 article 135 of the education law to practice veterinary medicine in this
6 state. With respect to a professional service limited liability company
7 formed to provide professional engineering, land surveying, architec-
8 tural, landscape architectural and/or geological services as such
9 services are defined in article 145, article 147 and article 148 of the
10 education law, each member of such limited liability company must be
11 licensed pursuant to article 145, article 147 and/or article 148 of the
12 education law to practice one or more of such professions in this state.
13 With respect to a professional service limited liability company formed
14 to provide licensed clinical social work services as such services are
15 defined in article 154 of the education law, each member of such limited
16 liability company shall be licensed pursuant to article 154 of the
17 education law to practice licensed clinical social work in this state.
18 With respect to a professional service limited liability company formed
19 to provide creative arts therapy services as such services are defined
20 in article 163 of the education law, each member of such limited liabil-
21 ity company must be licensed pursuant to article 163 of the education
22 law to practice creative arts therapy in this state. With respect to a
23 professional service limited liability company formed to provide
24 marriage and family therapy services as such services are defined in
25 article 163 of the education law, each member of such limited liability
26 company must be licensed pursuant to article 163 of the education law to
27 practice marriage and family therapy in this state. With respect to a
28 professional service limited liability company formed to provide mental
29 health counseling services as such services are defined in article 163
30 of the education law, each member of such limited liability company must
31 be licensed pursuant to article 163 of the education law to practice
32 mental health counseling in this state. With respect to a professional
33 service limited liability company formed to provide psychoanalysis
34 services as such services are defined in article 163 of the education
35 law, each member of such limited liability company must be licensed
36 pursuant to article 163 of the education law to practice psychoanalysis
37 in this state. With respect to a professional service limited liability
38 company formed to provide applied behavior analysis services as such
39 services are defined in article 167 of the education law, each member of
40 such limited liability company must be licensed or certified pursuant to
41 article 167 of the education law to practice applied behavior analysis
42 in this state. In addition to engaging in such profession or
43 professions, a professional service limited liability company may engage
44 in any other business or activities as to which a limited liability
45 company may be formed under section two hundred one of this chapter.
46 Notwithstanding any other provision of this section, a professional
47 service limited liability company (i) authorized to practice law may
48 only engage in another profession or business or activities or (ii)
49 which is engaged in a profession or other business or activities other
50 than law may only engage in the practice of law, to the extent not
51 prohibited by any other law of this state or any rule adopted by the
52 appropriate appellate division of the supreme court or the court of
53 appeals. Notwithstanding any other provision of this section, with
54 respect to a limited liability company formed to provide integrated,
55 multidisciplinary medical and chiropractic services, as such services
56 are respectively defined under articles 131 and 132 of the education

1 law, (i) each member of such limited liability company must be licensed
2 pursuant to article 131 or article 132 of the education law to practice
3 his or her profession in this state, (ii) each member shall only prac-
4 tice his or her profession as specified in his or her respective profes-
5 sional enabling statute under article 131 or article 132 of the educa-
6 tion law, and (iii) the clinical integration of professional practices
7 within an integrated, multidisciplinary entity organized under this
8 section does not alter, expand or curtail the scope of practice of any
9 of the individuals licensed under the statute of his or her respective
10 professional enabling law, provided that: (a) the clinical judgment,
11 management and clinical decision-making of one or more article 131
12 providers in an integrated, multidisciplinary professional service
13 limited liability company shall be controlling, (b) members licensed
14 under article 132 of the education law, shall not, directly or indirect-
15 ly, interfere with the clinical judgment or legitimate clinical practice
16 of a professional licensed under article 131, and (c) individuals
17 licensed under article 131 may not order or direct a professional
18 licensed under article 132 of the education law to practice beyond the
19 scope of his or her license under article 132 of the education law, even
20 if supervised directly or indirectly by a professional licensed under
21 article 131.

22 § 2. Subdivision (b) of section 1207 of the limited liability company
23 law, as amended by chapter 475 of the laws of 2014, is amended to read
24 as follows:

25 (b) With respect to a professional service limited liability company
26 formed to provide medical services as such services are defined in arti-
27 cle 131 of the education law, each member of such limited liability
28 company must be licensed pursuant to article 131 of the education law to
29 practice medicine in this state. With respect to a professional service
30 limited liability company formed to provide dental services as such
31 services are defined in article 133 of the education law, each member of
32 such limited liability company must be licensed pursuant to article 133
33 of the education law to practice dentistry in this state. With respect
34 to a professional service limited liability company formed to provide
35 veterinary services as such services are defined in article 135 of the
36 education law, each member of such limited liability company must be
37 licensed pursuant to article 135 of the education law to practice veter-
38 inary medicine in this state. With respect to a professional service
39 limited liability company formed to provide professional engineering,
40 land surveying, architectural, landscape architectural and/or geological
41 services as such services are defined in article 145, article 147 and
42 article 148 of the education law, each member of such limited liability
43 company must be licensed pursuant to article 145, article 147 and/or
44 article 148 of the education law to practice one or more of such
45 professions in this state. With respect to a professional service limit-
46 ed liability company formed to provide licensed clinical social work
47 services as such services are defined in article 154 of the education
48 law, each member of such limited liability company shall be licensed
49 pursuant to article 154 of the education law to practice licensed clin-
50 ical social work in this state. With respect to a professional service
51 limited liability company formed to provide creative arts therapy
52 services as such services are defined in article 163 of the education
53 law, each member of such limited liability company must be licensed
54 pursuant to article 163 of the education law to practice creative arts
55 therapy in this state. With respect to a professional service limited
56 liability company formed to provide marriage and family therapy services

1 as such services are defined in article 163 of the education law, each
2 member of such limited liability company must be licensed pursuant to
3 article 163 of the education law to practice marriage and family therapy
4 in this state. With respect to a professional service limited liability
5 company formed to provide mental health counseling services as such
6 services are defined in article 163 of the education law, each member of
7 such limited liability company must be licensed pursuant to article 163
8 of the education law to practice mental health counseling in this state.

9 With respect to a professional service limited liability company formed
10 to provide psychoanalysis services as such services are defined in arti-
11 cle 163 of the education law, each member of such limited liability
12 company must be licensed pursuant to article 163 of the education law to
13 practice psychoanalysis in this state. With respect to a professional
14 service limited liability company formed to provide applied behavior
15 analysis services as such services are defined in article 167 of the
16 education law, each member of such limited liability company must be
17 licensed or certified pursuant to article 167 of the education law to
18 practice applied behavior analysis in this state. Notwithstanding any
19 other provision of this section, with respect to a professional service
20 limited liability company formed to provide integrated, multidiscipli-
21 nary medical and chiropractic services, as such services are respective-
22 ly defined under articles 131 and 132 of the education law, (i) each
23 member of such limited liability company must be licensed pursuant to
24 article 131 or article 132 of the education law to practice his or her
25 profession in this state, (ii) each member shall only practice his or
26 her profession as specified in his or her respective professional enabl-
27 ing statute under article 131 or article 132 of the education law, and
28 (iii) the clinical integration of professional practices within an inte-
29 grated, multidisciplinary entity organized under this section does not
30 alter, expand or curtail the scope of practice of any of the individuals
31 licensed under the statute of his or her respective professional enabl-
32 ing law, provided that: (a) the clinical judgment, management and clin-
33 ical decision-making of one or more article 131 providers in an inte-
34 grated, multidisciplinary professional service limited liability company
35 shall be controlling, (b) members licensed under article 132 of the
36 education law, shall not, directly or indirectly, interfere with the
37 clinical judgment or legitimate clinical practice of a professional
38 licensed under article 131, and (c) individuals licensed under article
39 131 may not order or direct a professional licensed under article 132 of
40 the education law to practice beyond the scope of his or her license
41 under article 132 of the education law, even if supervised directly or
42 indirectly by a professional licensed under article 131.

43 § 3. Subdivision (a) of section 1301 of the limited liability company
44 law, as amended by chapter 475 of the laws of 2014, is amended to read
45 as follows:

46 (a) "Foreign professional service limited liability company" means a
47 professional service limited liability company, whether or not denomi-
48 nated as such, organized under the laws of a jurisdiction other than
49 this state, (i) each of whose members and managers, if any, is a profes-
50 sional authorized by law to render a professional service within this
51 state and who is or has been engaged in the practice of such profession
52 in such professional service limited liability company or a predecessor
53 entity, or will engage in the practice of such profession in the profes-
54 sional service limited liability company within thirty days of the date
55 such professional becomes a member, or each of whose members and manag-
56 ers, if any, is a professional at least one of such members is author-

1 ized by law to render a professional service within this state and who
2 is or has been engaged in the practice of such profession in such
3 professional service limited liability company or a predecessor entity,
4 or will engage in the practice of such profession in the professional
5 service limited liability company within thirty days of the date such
6 professional becomes a member, or (ii) authorized by, or holding a
7 license, certificate, registration or permit issued by the licensing
8 authority pursuant to, the education law to render a professional
9 service within this state; except that all members and managers, if any,
10 of a foreign professional service limited liability company that
11 provides health services in this state shall be licensed in this state.
12 With respect to a foreign professional service limited liability company
13 which provides veterinary services as such services are defined in arti-
14 cle 135 of the education law, each member of such foreign professional
15 service limited liability company shall be licensed pursuant to article
16 135 of the education law to practice veterinary medicine. With respect
17 to a foreign professional service limited liability company which
18 provides medical services as such services are defined in article 131 of
19 the education law, each member of such foreign professional service
20 limited liability company must be licensed pursuant to article 131 of
21 the education law to practice medicine in this state. With respect to a
22 foreign professional service limited liability company which provides
23 dental services as such services are defined in article 133 of the
24 education law, each member of such foreign professional service limited
25 liability company must be licensed pursuant to article 133 of the educa-
26 tion law to practice dentistry in this state. With respect to a foreign
27 professional service limited liability company which provides profes-
28 sional engineering, land surveying, geologic architectural and/or land-
29 scape architectural services as such services are defined in article
30 145, article 147 and article 148 of the education law, each member of
31 such foreign professional service limited liability company must be
32 licensed pursuant to article 145, article 147 and/or article 148 of the
33 education law to practice one or more of such professions in this state.
34 With respect to a foreign professional service limited liability company
35 which provides licensed clinical social work services as such services
36 are defined in article 154 of the education law, each member of such
37 foreign professional service limited liability company shall be licensed
38 pursuant to article 154 of the education law to practice clinical social
39 work in this state. With respect to a foreign professional service
40 limited liability company which provides creative arts therapy services
41 as such services are defined in article 163 of the education law, each
42 member of such foreign professional service limited liability company
43 must be licensed pursuant to article 163 of the education law to prac-
44 tice creative arts therapy in this state. With respect to a foreign
45 professional service limited liability company which provides marriage
46 and family therapy services as such services are defined in article 163
47 of the education law, each member of such foreign professional service
48 limited liability company must be licensed pursuant to article 163 of
49 the education law to practice marriage and family therapy in this state.
50 With respect to a foreign professional service limited liability company
51 which provides mental health counseling services as such services are
52 defined in article 163 of the education law, each member of such foreign
53 professional service limited liability company must be licensed pursuant
54 to article 163 of the education law to practice mental health counseling
55 in this state. With respect to a foreign professional service limited
56 liability company which provides psychoanalysis services as such

services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. With respect to a foreign professional service limited liability company which provides applied behavior analysis services as such services are defined in article 167 of the education law, each member of such foreign professional service limited liability company must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. With respect to a foreign professional service limited liability company formed to provide integrated, multi-disciplinary medical and chiropractic services, as such services are respectively defined under article 131 and article 132 of the education law, (i) each member of such limited liability company must be licensed pursuant to article 131 or article 132 of the education law to practice his or her profession in this state, (ii) each member shall only practice his or her profession as specified in his or her respective professional enabling statute under article 131 or article 132 of the education law, and (iii) the clinical integration of professional practices within an integrated, multidisciplinary entity organized under this section does not alter, expand or curtail the scope of practice of any of the individuals licensed under the statute of his or her respective professional enabling law, provided that: (a) the clinical judgment, management and clinical decision-making of one or more article 131 providers in an integrated, multidisciplinary professional service limited liability company shall be controlling, (b) members licensed under article 132 of the education law, shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 131, and (c) individuals licensed under article 131 may not order or direct a professional licensed under article 132 of the education law to practice beyond the scope of his or her license under article 132 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.

§ 4. Paragraph (a) of section 1503 of the business corporation law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(a) Notwithstanding any other provision of law, (i) one or more individuals duly authorized by law to render the same professional service within the state may organize, or cause to be organized, a professional service corporation for pecuniary profit under this article for the purpose of rendering the same professional service, except that one or more individuals duly authorized by law to practice professional engineering, architecture, landscape architecture, land surveying or geology within the state may organize, or cause to be organized, a professional service corporation or a design professional service corporation for pecuniary profit under this article for the purpose of rendering such professional services as such individuals are authorized to practice, and, (ii) one or more individuals duly licensed to practice medicine and one or more chiropractors licensed under article 132 of the education law, who may be board certified or qualified by his or her respective professional specialty boards, may organize, or cause to be organized, for business purposes only, a multidisciplinary professional service corporation formed for pecuniary profit under this article for the purpose of rendering integrated and non-integrated professional services within such a corporation as such individuals are authorized to practice individually in his or her respective professions, provided that the

clinical integration of professional practices within an entity organized under this section does not alter, expand or curtail the scope of practice of any of the individuals licensed under the statute of his or her respective professional enabling law; that the clinical judgment, management and clinical decision-making of one or more article 131 providers in an integrated, multidisciplinary practice shall be controlling; that members licensed under article 132 of the education law, shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 131; and that individuals licensed under article 131 may not order or direct a professional licensed under article 132 of the education law to practice beyond the scope of his or her license under article 132 of the education law in a professional service limited liability company, even if supervised directly or indirectly by a professional licensed under article 131.

§ 5. Subdivision (q) of section 121-1500 of the partnership law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(q) Each partner of a registered limited liability partnership formed to provide medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and each partner of a registered limited liability partnership formed to provide dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a registered limited liability partnership formed to provide veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a registered limited liability partnership formed to provide professional engineering, land surveying, geological services, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. Each partner of a registered limited liability partnership formed to provide licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice clinical social work in this state. Each partner of a registered limited liability partnership formed to provide creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a registered limited liability partnership formed to provide marriage and family therapy services in this state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a registered limited liability partnership formed to provide mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a registered limited liability partnership formed to provide psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. Each partner of a registered limited liability partnership formed to provide applied behavior analysis service in this state must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. Each partner of a registered limited liability partnership formed to provide integrated, multidisciplinary medical and chiropractic services, as such services are respectively defined under article 131 and article 132 of the education law, (i) must be licensed pursuant

to article 131 or article 132 of the education law to practice his or her profession in this state, (ii) shall only practice his or her profession as specified in his or her respective professional enabling statute under article 131 or article 132 of the education law, and (iii) the clinical integration of professional practices within an integrated, multi-disciplinary entity organized under this section does not alter, expand or curtail the scope of practice of any of the individuals licensed under the statute of his or her respective professional enabling law, provided that: (a) the clinical judgment, management and clinical decision-making of one or more article 131 providers in an integrated, multidisciplinary professional service limited liability company shall be controlling, (b) members licensed under article 132 of the education law, shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 131, and (c) individuals licensed under article 131 may not order or direct a professional licensed under article 132 of the education law to practice beyond the scope of his or her license under article 132 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.

§ 6. Subdivision (q) of section 121-1502 of the partnership law, as amended by chapter 475 of the laws of 2014, is amended to read as follows:

(q) Each partner of a foreign limited liability partnership which provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in the state and each partner of a foreign limited liability partnership which provides dental services in the state must be licensed pursuant to article 133 of the education law to practice dentistry in this state. Each partner of a foreign limited liability partnership which provides veterinary service in the state shall be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. Each partner of a foreign limited liability partnership which provides professional engineering, land surveying, geological services, architectural and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions. Each partner of a foreign limited liability partnership which provides licensed clinical social work services in this state must be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. Each partner of a foreign limited liability partnership which provides creative arts therapy services in this state must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. Each partner of a foreign limited liability partnership which provides marriage and family therapy services in this state must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. Each partner of a foreign limited liability partnership which provides mental health counseling services in this state must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. Each partner of a foreign limited liability partnership which provides psychoanalysis services in this state must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. Each partner of a foreign limited liability partnership which provides applied behavior analysis services in this state must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. Each partner of a foreign

limited liability partnership formed to provide integrated, multidisciplinary medical and chiropractic services, as such services are defined under article 131 or article 132 of the education law, (i) must be licensed pursuant to article 131 or article 132 of the education law to practice his or her profession in this state, (ii) shall only practice his or her profession as specified in his or her respective professional enabling statute under article 131 or article 132 of the education law, and (iii) the clinical integration of professional practices within an integrated, multidisciplinary entity organized under this section does not alter, expand or curtail the scope of practice of any of the individuals licensed under the statute of his or her respective professional enabling law, provided that: (a) the clinical judgment, management and clinical decision-making of one or more article 131 providers in an integrated, multidisciplinary professional service limited liability company shall be controlling, (b) members not licensed under article 131 of the education law, shall not, directly or indirectly, interfere with the clinical judgment or legitimate clinical practice of a professional licensed under article 131, and (c) individuals licensed under article 131 may not order or direct a professional licensed under article 132 of the education law to practice beyond the scope of his or her license under article 132 of the education law, even if supervised directly or indirectly by a professional licensed under article 131.

§ 7. Subdivision 1 of section 2801 of the public health law, as amended by section 1 of subpart B of part S of chapter 57 of the laws of 2018, is amended to read as follows:

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, or, in the case of a midwifery birth center, of a midwife, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, midwifery birth center, lying-in-asylum, out-patient department, out-patient lodge, dispensary and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of such a facility which provide hospital service. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings or to a business corporation, limited liability corporation or partnership between a medical doctor and a duly licensed title VIII healthcare professional. No provision of this article or any other provision of law shall be construed to: (a) limit the volume of mental health or substance use disorder services that can be provided by a provider of primary care services licensed under this article and authorized to provide integrated services in accordance with regulations

1 issued by the commissioner in consultation with the commissioner of the
2 office of mental health and the commissioner of the office of alcoholism
3 and substance abuse services, including regulations issued pursuant to
4 subdivision seven of section three hundred sixty-five-1 of the social
5 services law or part L of chapter fifty-six of the laws of two thousand
6 twelve; (b) require a provider licensed pursuant to article thirty-one
7 of the mental hygiene law or certified pursuant to article thirty-two of
8 the mental hygiene law to obtain an operating certificate from the
9 department if such provider has been authorized to provide integrated
10 services in accordance with regulations issued by the commissioner in
11 consultation with the commissioner of the office of mental health and
12 the commissioner of the office of alcoholism and substance abuse
13 services, including regulations issued pursuant to subdivision seven of
14 section three hundred sixty-five-1 of the social services law or part L
15 of chapter fifty-six of the laws of two thousand twelve.

16 § 8. Subdivision 19 of section 6530 of the education law, as added by
17 chapter 606 of the laws of 1991, is amended to read as follows:

18 19. Permitting any person to share in the fees for professional
19 services, other than: a partner, employee, associate in a professional
20 firm or corporation, professional subcontractor or consultant authorized
21 to practice medicine, or a legally authorized trainee practicing under
22 the supervision of a licensee or a chiropractor providing professional
23 services in the same practice. This prohibition shall include any
24 arrangement or agreement whereby the amount received in payment for
25 furnishing space, facilities, equipment or personnel services used by a
26 licensee constitutes a percentage of, or is otherwise dependent upon,
27 the income or receipts of the licensee from such practice, except as
28 otherwise provided by law with respect to a facility licensed pursuant
29 to article twenty-eight of the public health law or article thirteen of
30 the mental hygiene law;

31 § 9. Section 6509-a of the education law, as amended by chapter 555 of
32 the laws of 1993, is amended to read as follows:

33 § 6509-a. Additional definition of professional misconduct; limited
34 application. Notwithstanding any inconsistent provision of this article
35 or of any other provision of law to the contrary, the license or regis-
36 tration of a person subject to the provisions of articles one hundred
37 thirty-two, one hundred thirty-three, one hundred thirty-six, one
38 hundred thirty-seven, one hundred thirty-nine, one hundred forty-one,
39 one hundred forty-three, one hundred forty-four, one hundred fifty-six,
40 one hundred fifty-nine and one hundred sixty-four of this chapter may be
41 revoked, suspended or annulled or such person may be subject to any
42 other penalty provided in section sixty-five hundred eleven of this
43 article in accordance with the provisions and procedure of this article
44 for the following:

45 That any person subject to the above enumerated articles, has directly
46 or indirectly requested, received or participated in the division,
47 transference, assignment, rebate, splitting or refunding of a fee for,
48 or has directly requested, received or profited by means of a credit or
49 other valuable consideration as a commission, discount or gratuity in
50 connection with the furnishing of professional care, or service, includ-
51 ing x-ray examination and treatment, or for or in connection with the
52 sale, rental, supplying or furnishing of clinical laboratory services or
53 supplies, x-ray laboratory services or supplies, inhalation therapy
54 service or equipment, ambulance service, hospital or medical supplies,
55 physiotherapy or other therapeutic service or equipment, artificial
56 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,

1 optical appliances, supplies or equipment, devices for aid of hearing,
2 drugs, medication or medical supplies or any other goods, services or
3 supplies prescribed for medical diagnosis, care or treatment under this
4 chapter, except payment, not to exceed thirty-three and one-third per
5 centum of any fee received for x-ray examination, diagnosis or treat-
6 ment, to any hospital furnishing facilities for such examination, diag-
7 nosis or treatment. Nothing contained in this section shall prohibit
8 such persons from practicing as partners, in groups or as a professional
9 corporation or as a university faculty practice corporation nor from
10 pooling fees and moneys received, either by the partnerships, profes-
11 sional corporations, university faculty practice corporations or groups
12 by the individual members thereof, for professional services furnished
13 by any individual professional member, or employee of such partnership,
14 corporation or group, nor shall the professionals constituting the part-
15 nerships, corporations or groups be prohibited from sharing, dividing or
16 apportioning the fees and moneys received by them or by the partnership,
17 corporation or group in accordance with a partnership or other agree-
18 ment; provided that no such practice as partners, corporations or in
19 groups or pooling of fees or moneys received or shared, division or
20 apportionment of fees shall be permitted with respect to care and treat-
21 ment under the workers' compensation law except as expressly authorized
22 by the workers' compensation law. Nothing contained in this section,
23 shall prohibit a multidisciplinary medical and chiropractic practice
24 formed pursuant to subdivision (a) or (b) of section twelve hundred
25 three of the limited liability company law, subdivision (a) of section
26 thirteen hundred one of the limited liability company law, paragraph (a)
27 of section fifteen hundred three of the business corporation law, subdi-
28 vision (q) of section 121-1500 of the partnership law, or subdivision
29 (q) of section 121-1502 of the partnership law from pooling fees or
30 monies received. Nothing contained in this chapter shall prohibit a
31 medical or dental expense indemnity corporation pursuant to its contract
32 with the subscriber from prorationing a medical or dental expense indem-
33 nity allowance among two or more professionals in proportion to the
34 services rendered by each such professional at the request of the
35 subscriber, provided that prior to payment thereof such professionals
36 shall submit both to the medical or dental expense indemnity corporation
37 and to the subscriber statements itemizing the services rendered by each
38 such professional and the charges therefor.

39 § 10. Section 6531 of the education law, as amended by chapter 555 of
40 the laws of 1993, is amended to read as follows:

41 § 6531. Additional definition of professional misconduct, limited
42 application. Notwithstanding any inconsistent provision of this article
43 or any other provisions of law to the contrary, the license or registra-
44 tion of a person subject to the provisions of this article and article
45 one hundred thirty-one-B of this chapter may be revoked, suspended, or
46 annulled or such person may be subject to any other penalty provided in
47 section two hundred thirty-a of the public health law in accordance with
48 the provisions and procedures of this article for the following:

49 That any person subject to the above-enumerated articles has directly
50 or indirectly requested, received or participated in the division,
51 transference, assignment, rebate, splitting, or refunding of a fee for,
52 or has directly requested, received or profited by means of a credit or
53 other valuable consideration as a commission, discount or gratuity, in
54 connection with the furnishing of professional care or service, includ-
55 ing x-ray examination and treatment, or for or in connection with the
56 sale, rental, supplying, or furnishing of clinical laboratory services

1 or supplies, x-ray laboratory services or supplies, inhalation therapy
2 service or equipment, ambulance service, hospital or medical supplies,
3 physiotherapy or other therapeutic service or equipment, artificial
4 limbs, teeth or eyes, orthopedic or surgical appliances or supplies,
5 optical appliances, supplies, or equipment, devices for aid of hearing,
6 drugs, medication, or medical supplies, or any other goods, services, or
7 supplies prescribed for medical diagnosis, care, or treatment under this
8 chapter, except payment, not to exceed thirty-three and one-third
9 percent of any fee received for x-ray examination, diagnosis, or treat-
10 ment, to any hospital furnishing facilities for such examination, diag-
11 nosis, or treatment. Nothing contained in this section shall prohibit
12 such persons from practicing as partners, in groups or as a professional
13 corporation or as a university faculty practice corporation, nor from
14 pooling fees and moneys received, either by the partnerships, profes-
15 sional corporations, or university faculty practice corporations or
16 groups by the individual members thereof, for professional services
17 furnished by an individual professional member, or employee of such
18 partnership, corporation, or group, nor shall the professionals consti-
19 tuting the partnerships, corporations or groups be prohibited from shar-
20 ing, dividing, or apportioning the fees and moneys received by them or
21 by the partnership, corporation, or group in accordance with a partner-
22 ship or other agreement; provided that no such practice as partners,
23 corporations, or groups, or pooling of fees or moneys received or
24 shared, division or apportionment of fees shall be permitted with
25 respect to and treatment under the workers' compensation law. Nothing
26 contained in this section, shall prohibit a multidisciplinary medical
27 and chiropractic practice formed pursuant to subdivision (a) or (b) of
28 section twelve hundred three of the limited liability company law,
29 subdivision (a) of section thirteen hundred one of the limited liability
30 company law, paragraph (a) of section fifteen hundred three of the busi-
31 ness corporation law, subdivision (q) of section 121-1500 of the part-
32 nership law, or subdivision (q) of section 121-1502 of the partnership
33 law from pooling fees or monies received. Nothing contained in this
34 chapter shall prohibit a corporation licensed pursuant to article
35 forty-three of the insurance law pursuant to its contract with the
36 subscribed from prorationing a medical or dental expenses indemnity
37 allowance among two or more professionals in proportion to the services
38 rendered by each such professional at the request of the subscriber,
39 provided that prior to payment thereof such professionals shall submit
40 both to the corporation licensed pursuant to article forty-three of the
41 insurance law and to the subscriber statements itemizing the services
42 rendered by each such professional and the charges therefor.

43 § 11. This act shall take effect on the thirtieth day after it shall
44 have become a law.